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## TOWN OF NEW WINDSOR

### ZONING BOARD OF APPEALS

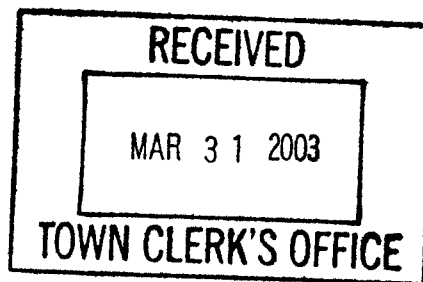
Regular Session

Date: MARCH 10, 2003

#### AGENDA:

7:30 p.m. – Roll Call

#### PRELIMINARY MEETINGS:



1. **M & Y BUILDERS INC. (#03-10)** Request for :

62,281 sq. ft minimum lot area  
91 ft. minimum lot width  
11 ft. & 18 ft. required side yard setback  
38 ft. required rear yard setback  
2% Developmental Coverage

To remove existing mobile home and construct a 2-story house on East Green Road in an **R-1 Zone (55-1-77.1)**

2. **ALEXANDER COUZIS (#03-12)** Request for interpretation of residence as a single-family with two kitchens at 108 Shaker Court North in a **CL zone (80-1-18)**

#### PUBLIC HEARINGS:

3. **PAUL & LUANN DECKER (#03-06)** Request for 5 ft required front yard setback on Butternut Drive for 5 ft. X 15 ft. covered front porch and 21 ft. required front yard setback on Butterhill Drive for proposed two-story addition on Butternut Drive in a **CL Zone (80-3-1)**

4. **JOHN BENICHIASA (#03-04)** –Request for Use Variance to operate an existing machine shop on Garden Drive in an **R-4 Zone (47-1-58)**

5. **JOHN RINALDI (#03-11)** Request for Interpretation for single-family home containing two kitchens at 322 Linden Avenue in an **R-4 zone (62-4-12.1)**

#### **FORMAL DECISIONS:**

HUDSON VALLEY DRILLING – 02-34

ANNE HARRIS – 02-64

CARALEX REALTY – 02-65

ROUTE 32 N.W. REALTY LLC – 02-66

BLOOM & BLOOM – 02-68

JAMES NUGENT, JR. – 02-69

LA CASA D'ORO – 02-72

DAVID CRAWFORD – 02-74

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TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS

MARCH 10, 2003

MEMBERS PRESENT: LAWRENCE TORLEY, CHAIRMAN  
MICHAEL KANE  
MICHAEL REIS  
STEPHEN RIVERA

ALSO PRESENT: MICHAEL BABCOCK  
BUILDING INSPECTOR

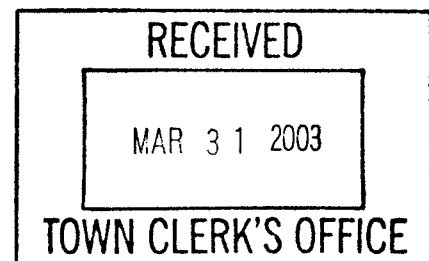
ANDREW KRIEGER, ESQ.  
ZONING BOARD ATTORNEY

MYRA MASON  
ZONING BOARD SECRETARY

ABSENT: LEN MCDONALD

REGULAR MEETING

MR. TORLEY: I'd like to call to order the March 10,  
2003 zoning board meeting.



PRELIMINARY MEETINGS:

M & Y BUILDERS INC. #03-10

MR. TORLEY: Request for 62,281 sq. ft. minimum lot area, 91 ft. minimum lot width, 11 ft. & 18 ft. required side yard setback, 38 ft. required rear yard setback and 2% developmental coverage to remove existing mobile home and construct a two story house on East Green Road in an R-1 zone.

Frank Kobb, Esq. appeared before the board for this proposal.

MR. KOB: Mr. Chairman and members of the board, my name is Frank Kobb, I'm an attorney in Rockland County, my office is at 404 East Route 59, Nanuet, New York.

MR. TORLEY: Before you go any further, for your benefit and for the, any other preliminary members, people for preliminary meetings, by state law, everything the zoning board does has to occur after having a public hearing. We hold these preliminary meetings as a means so that the applicant probably never will do this again in his life has some idea of the kind of questions and information we'll need at a public hearing and vice versa. So that no one is surprised at a public hearing you walk in with the information and hopefully have your ducks in a row. So the purpose is just that so we can understand what your problem is, what relief you're seeking and what we need at the public hearing.

MR. KOB: Thank you, Mr. Chairman. I'm from Rockland County, but I have the privilege of coming up to Orange County a lot now, most of our land is gone down in Rockland so we'll be up here a lot. So it's my privilege to appear before you and I will be appearing before planning boards and other places in the county. This particular piece of property was purchased with an existing trailer. When the trailer was built, the zoning on this particular lot was less than it is now and the trailer received both the building permit and Certificate of Occupancy. Since that time, the lot was established as a separate lot, it's a very small lot

considering that you have two acre zoning now so that the zoning changed after the property was created and so we're stuck with or in a sense we have an existing lot which if we had to conform with the existing now, existing requirements, no house could really be built because if you look just at the side yard, the totals on each, our lot isn't wide enough to put anything on. So even though it looks like a substantial number of variances, the variances really are necessary because of the lot that we have. We cannot make the lot any bigger because there's nobody next door that we can buy land from, so we can't create a bigger lot. We have to use what we have. The house that we plan to build it's not the same size but it's substantially the same size as the trailer and substantially the same size of the trailer not in the same location so the variances that are requested really are primarily created because of the lot that we have to put the house on. So that even though it looks like on its face that we're asking for substantial variances, the variances really are not substantial considering the size of lot because when you have a two acre zoning, obviously, the requirements are geared towards a lot that's going to have two acres and there's no way that we can get anywhere near the requirements. Obviously, we have a smaller lot, we have smaller frontage, we have less, everything is less, not everything but almost everything is less than what's anticipated when you consider that a zoning ordinance now is geared towards a lot that would be a two acre lot. So I think that if, rather than go through the normal requirements, I think that the basic requirement for this type of a bulk variance is that there will not be a substantial impact on the neighborhood. We will be removing the trailer, building a house, we're not going to create any substantial impact. I think the benefit to the applicant far outweighs any possible detriment in any way to the neighborhood. So that in general is what we're looking for. If there's any specific questions, I'm here, my client is here, the engineer is here.

MR. KANE: For the public hearing, could you provide us with some details on the actual size of the house that's going to go up compared to the size of the trailer that's there existing now? If I heard

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correctly, you said you're going to use basically the same footprint approximately?

MR. KOBB: Approximately.

MR. KANE: If you can bring those figures in, that would be very helpful.

MR. TORLEY: Yeah, as part of that, you said you're putting a two story house typically called a bi-level type house?

MR. KOBB: I think some of the questions we might be able to answer tonight.

MR. TORLEY: No, the reason I'm bringing this up is it has be our sad experience in the past where some applicants that they have put up what's called a bi-level regardless of whether or not they need a zoning variance, the bi-level has the upper level with sliding glass doors and the back of the house is on the back of the permissible line. So in order to put in an obviously required deck, the purchaser has to come back and try to get a variance. We want to establish that's not what you're doing.

MR. KANE: We'd prefer to do it all at once.

MR. KOBB: I think that's a legitimate attitude because if we do come to you and are successful in obtaining a variance, I think it will not be very good practice to anticipate that we're going to come back for another variance, so certainly that's something I think whatever variances we ask for are going to be the variances.

MR. KANE: Appreciate that.

MR. TORLEY: As you said, some idea of the plot of the house.

MR. KANE: And the total square footage, if you could.

MR. KOBB: We're going to have plans so--

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MR. TORLEY: Gentlemen, do you have any other questions at this time?

MR. PIERRE: My name is Nelson Pierre, I'm the engineer.

MR. TORLEY: We don't need to see you yet because the purpose of this preliminary meeting is to get you to know what we're going to ask at the public hearing.

MR. KANE: Do you have the plans with you?

MR. PIERRE: I sent a copy of them.

MR. KANE: At the public hearing we'll take a copy.

MR. REIS: Accept a motion?

MR. TORLEY: Yes, sir.

MR. REIS: Make a motion that we set up M & Y Builders Inc. for the requested variances at East Green Road.

MR. KANE: Second the motion.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. KANE	AYE
MR. TORLEY	AYE

MR. KOBBS: May I ask one question? You'll be setting it at a later date?

MR. TORLEY: Depends when you get your information back and advertising.

MR. KOBBS: I understand, check with the clerk.

MS. MASON: If you can just call me tomorrow, I'll explain everything to you.

MR. KOBBS: You've been very helpful up until now, thank you very much.

ALEXANDER COUZIS #03-12

Mr. Alexander Couzis appeared before the board for this proposal

MR. TORLEY: Request for interpretation of residence as a single-family with two kitchens at 108 Shaker Court North in a CL zone.

MR. COUZIS: Good evening, we have a bi-level house in the Butternut Estates development and we finished the basement, the basement has a family room, bathroom and what is a laundry room and the laundry room we installed a kitchen sink and cabinetry not for the purpose of ever using that as a kitchen, basically to provide space for storage. So when the inspector came in to get the final inspection underway, he suggested that it becomes publicly aware that the intention for this room is not to be used as a kitchen but purely as a laundry room in case ever the issue comes up, rent the basement or something along those lines, which is fully understandable.

MR. KANE: No questions. He lives across the street, I know him.

MR. TORLEY: Gentlemen, if you have no other questions.

MR. KANE: Pretty straightforward.

MR. TORLEY: We're trying to make sure this is squared up, we appreciate that. By going through the public hearing on the interpretation, what you will be doing then is in essence affirming that this is a single family house and will remain a single family house and that will bind any subsequent owners of that house.

MR. COUZIS: Understood.

MR. KANE: During the public hearing, you'll be asked a couple more questions more so than what you have been asked today.

MR. COUZIS: Okay.

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MR. REIS: If you can supply pictures of the house, it would be helpful.

MR. TORLEY: They're already in here.

MR. TORLEY: It's clearly a laundry sink.

MR. REIS: Just for the record.

MR. TORLEY: Gentlemen?

MR. REIS: Accept a motion?

MR. TORLEY: Yes, sir.

MR. KANE: I move that we set up Alex Couzis for a public hearing on his requested variance at 108 Shaker Court.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. KANE	AYE
MR. TORLEY	AYE



PUBLIC HEARINGS:

PAUL & LUANN DECKER

Mr. Paul Decker appeared before the board for this proposal.

MR. TORLEY: Request for 5 ft. required front yard setback on Butternut Drive for 5 ft. x 15 ft. covered front porch and 21 ft. required front yard setback on Butternut Drive for proposed two-story addition on Butternut Drive in a CL zone.

Is there anyone in the audience who wishes to speak on this matter? Again, anyone who wishes to speak on Luann and Paul Decker? Hearing no one, let the record so show. Yes, sir?

MR. DECKER: Yes, I'm here seeking a variance for a front yard and porch addition to a residence at 323 Butternut Drive.

MR. KANE: Five foot required front yard setback that's because you're on a corner piece of property?

MR. DECKER: That's correct.

MR. KANE: So he has two front yards?

MR. BABCOCK: That's correct.

MR. KRIEGER: Even though visually he appears to just have one?

MR. BABCOCK: That's correct.

MR. KANE: You're not going to be cutting down any trees in the building of this?

MR. DECKER: No.

MR. KANE: Creating any water hazards or water runoff?

MR. DECKER: No.

MR. KANE: The size of the deck, do you feel that it

will change the nature of the neighborhood, any bigger than the other houses making it look like something different?

MR. DECKER: No, we're just trying to tie into the existing architecture to make it look appropriate.

MR. TORLEY: Because of the nature of your lot with two front yards, there's no economically feasible place for you to put the deck that would not encroach on the front yard?

MR. DECKER: No. We tried actually doing some preliminary designs with a couple different versions but we couldn't come up with an alternative.

MR. KANE: No easements or anything through your yard?

MR. DECKER: Not that I'm aware of, no.

MR. KRIEGER: You're connected to municipal water and sewer, correct?

MR. DECKER: Right.

MR. KRIEGER: This deck will be substantially the same as other decks in the neighborhood?

MR. BABCOCK: This is an addition.

MR. TORLEY: Deck and addition.

MR. KRIEGER: Won't make the house any bigger than other houses in the neighborhood?

MR. DECKER: No, the square footage of the house is the smallest model in Butterhill Estates.

MR. KRIEGER: Just bring it up a little bit.

MR. DECKER: It will still be below average.

MR. TORLEY: Similar to other houses?

MR. DECKER: Yes.

MR. TORLEY: The additional will not impede the vision of any drivers?

MR. DECKER: No, it's well off the street.

MR. KRIEGER: Won't cause the house to appear to be any closer to the road than any other houses?

MR. DECKER: No.

MR. TORLEY: Final chance, anyone wishing to speak on this matter? Hearing none, I will open and close the public hearing, turn it back to the members of the board. Gentlemen?

MR. RIVERA: Accept a motion?

MR. TORLEY: If you have no other questions, yes.

MR. RIVERA: I move that we approve Mr. Paul and Luann Decker their requested variance for the five foot required front yard setback but this is the addition, the proposed two story addition on Butternut Drive.

MR. REIS: Second it.

MR. KRIEGER: Also wants a 21 foot required.

MR. TORLEY: 21 foot required front yard setback and 5 by, well, let's rephrase this.

MR. KRIEGER: So your motion is to grant all the variances requested?

MR. RIVERA: Yes cause he was here last time and there was some confusion.

MR. TORLEY: Right, so we're set. Do I hear a second?

MR. REIS: Second it.

ROLL CALL

MR. RIVERA                      AYE

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MR. REIS	AYE
MR. KANE	AYE
MR. TORLEY	AYE

JOHN BENICHIASA #03-04

MR. TORLEY: Request for use variance to operate an existing machine shop on Garden Drive in an R-4 zone.

Mr. John Benichiasa appeared before the board for this proposal.

MR. TORLEY: I assume there's some members of the audience who wish to speak on this matter. What we're doing is taking around a piece of paper, put your name and address on it just so we have it properly for the record. While that's going on, we'll begin the public hearing. Let me first start off by asking about the mailing notices.

MS. MASON: On the 24th of February, 64 envelopes were mailed out containing the notice of public hearing.

MR. REIS: Excuse me, I ask the secretary, did we get any responses?

MS. MASON: We have one written response of someone who couldn't make it to the public hearing.

MR. TORLEY: Yes, sir, what's your request, tell us what you're doing and why you think you should be able to get the variance.

MR. BENICHIASA: About a year ago, the U.S. Government came to me connected with a system down in Orangeburg, New York for DHS Systems that they ran short with a trade called machine shops, there are no, there are a lot of machine shops, no machinists to operate them, it's a dying trade. And they came to me and says through another connection of mine that Air Logics, a company that I have, that they came to me and said would you mind trying to make these parts, just parts that they need fabricated. So I gave it a try and it was successful. The first one at making parts. Now it came to the point where they actually need a lot of these parts for systems connected with DHS. So it became an ongoing thing to where it's an extra income, it keeps me home, I have a shop available to do all this, no noise, it's quiet and that's basically all

there is to it.

MR. TORLEY: We went through the preliminary meeting as to whether this would constitute a home occupation or professional office and by looking at the, and our attorney's kind of gone through this as well, looking at the section of the code 48-37 which describes home occupations, it would appear that what you're doing does not fall under this category of home occupations. Therefore, since we cannot, this does not fall as home occupation, you're now asking for a use variance to operate a commercial activity in a residential zone.

MR. BENICHIASA: I'm not going to be doing commercial work.

MR. TORLEY: Are you being paid for doing this?

MR. BENICHIASA: Yes.

MR. TORLEY: That's commercial.

MR. BENICHIASA: Oh, it is, okay.

MR. TORLEY: Now, a use variance, back up a second, this board deals basically with two kinds of variances. Up to now, you've been hearing area variances, they have an odd shaped lot, they want to put a deck, that's an area variance. You're asking for a use variance. The state has made a use variance a much, much higher hurdle and our attorney can go through the criteria that must be met for a use variance to be granted.

MR. KRIEGER: There are four of them as defined by the law enacted in New York State which binds this board as it does all zoning boards of appeals throughout the state. The four criteria are as follows. The applicant cannot realize a reasonable return provided that the lack of return is substantial as demonstrated by competent financial evidence. Two, that the alleged hardship relating to the property in question is unique, does not apply to a substantial portion of the district and neighborhood. Three, that the requested use variance if granted will not alter the essential character of the neighborhood. And four, that the

alleged hardship has not been self-created.

MR. TORLEY: So my intention is now not necessarily to take those in numerical order, let's start with the last one first, self-created hardship. That means you have a problem, it's something that you did, you're asking, it's not like the land shifted and the stream bank is now on your property. That's not self-created. Obviously, this is the question, why is this not a self-created hardship, why is what you're doing not, again, by those criteria, you have to demonstrate that what you're doing is not a self-created hardship, not something you caused yourself. You have a machine shop in your house?

MR. BENICHIASA: Right.

MR. TORLEY: Put the machine stop in yourself?

MR. BENICHIASA: My and my father did.

MR. TORLEY: So just tell me why that's not a self-created hardship?

MR. BENICHIASA: Self-created hardship?

MR. TORLEY: You put a machine shop in your house.

MR. BENICHIASA: Right.

MR. TORLEY: Why isn't that something that you did.

MR. BENICHIASA: We did it, yes because we're machinists all our lives and we wanted a hobby shop.

MR. TORLEY: It's now become a commercial activity.

MR. BENICHIASA: Right, by demand.

MR. TORLEY: But you're not required to, you know, nobody to use a colloquial, nobody held a gun to your head and said I want to pay you for making machine parts. It's something you voluntarily did.

MR. BENICHIASA: Yes.

MR. TORLEY: We'll come back to that.

MR. KANE: Even though that's one tremendous hurdle that you have, it's a self-created hardship at this point so just move on to the next point that he has to try to cover.

MR. TOLREY: If you fail on any one of the four, the application by state law must be denied. Go to the first one that one says that your property could not be sold for a reasonable return for any legal purpose in that zone you have. You have a house, you couldn't sell that as a house and make a reasonable return on that property. You couldn't turn around and put it on the market, this is a one-family house with a garage and a workshop.

MR. BENICHIASA: I can sell it.

MR. TORLEY: That's two. Is what you're doing causing a change in the neighborhood?

MR. BENICHIASA: Not at all, except for an occasional truck.

MR. TORLEY: Number 3, I will grant you, is this a unique situation?

MR. BENICHIASA: Yes.

MR. TORLEY: There aren't other machine shops in the area.

MR. BENICHIASA: None around.

MR. TORLEY: Gentlemen, do you want to ask questions about this now or should I open it up to the public first?

MR. KANE: Open it up.

MR. RIVERA: To move the machinery outside, is that feasible?



MR. BENICHIASA: In a reasonable presentable time, yes, if I get up my budget to where I can buy a bigger building, yes.

MR. RIVERA: Temporary.

MR. BENICHIASA: Temporary, one or two years maximum. I do have plans to buy a building and to just move it away but for now, it's very convenient.

MR. TORLEY: Okay, at this point, gentlemen, at this point with your permission, I will open this up to the members of the public. Okay, now, it's your turn, please just give us your name when you stand up to speak and speak loudly enough that our stenographer can take down what you're saying.

MR. PAZOGA: My name is Steve Pazoga, 4 Garden Drive. I have been a resident since 1976. We have probably the best neighborhood in New Windsor, no crime, no traffic, all good neighbors. I believe this would be a detriment to our neighborhood. This is nothing personal against anybody in particular, just this is a beautiful neighborhood, my children have grown there, my son bought a house there and hopefully he's going to raise children there. I don't believe trucks coming in delivering steel is any benefit to our neighborhood. We had one of the trucks knock down some phone lines a few months ago. I had no phone for three days. I don't believe our street will support the weight of heavy trucks. We have children all over, young children that play on the street and from the papers we got from the Town, we don't know how this business can be operated, we don't know if it can be operated nights, weekends, we don't know the noise pollution involved in this, we don't know the air pollution involved in this, we don't as a group, I know nobody wants to be the bad neighbor, but I bought a home in a residential area. This is where I wanted to live. I work somewhere else. There's other people in our neighborhood that own businesses, they come home to Garden Drive to live. We don't come there to try and make money and cause a detriment to the neighbors around us and any problems this can perceive because I don't see anything. I'm trying to find out also from

the Town, I really couldn't get any straight answers that once a, something like this might be granted, can then, is it only a steppingstone to making it larger?

MR. TORLEY: No. Hypothetically, if this variance were granted, the board would have the capability of putting reasonable restrictions on it, size, hours of operation, that sort of thing, if it were granted. So you could say that it can't be operated after again hypothetically can't be operated after 7 p.m. at night.

MR. PAZOGA: Well, I'm looking at part of the codes here where like I say, you mention you can't have that type of equipment in a residential area, but no offensive orders or noise vibrations, smoke, noise, heat, light or glare, how do we know this is not going to happen? How do we know Garden Drive is going to support the weight of the trucks delivering steel? It's a circle, one entrance in and out. I think it's going to be a detriment to the neighborhood. That's my personal opinion. Like I say, it's a beautiful residential area, we don't want it to change. And I don't think this will be any help to the neighborhood. And last but not least, I don't know if this is going to do anything, if I plan on staying there for the rest of my life but who knows what this is going to do to my property value. That's all I have to say. Thank you.

MR. TORLEY: Does anyone else wish to speak?

MR. PAZOGA: Steve Pazoga, 20 Garden Drive, that's my father. My thing is I just recently bought a house, I have lived there 25 years, just recently bought a house there and I was under the impression it's zoned residential. I understand this is a business, small business like we're speaking of but could get bigger, could make noise. I'm only two houses away from it, I have nothing against you, you want to build on to your house, you want to do whatever, that's not a problem. But trucks coming in and out, people coming in and out, if I decide to raise a family there, I've now got to worry about my kids who want to play in my front yard, somebody driving a truck by, you know, something could happen there.

MR. TORLEY: So you believe that were this variance granted, it would alter the essential character of the neighborhood?

MR. PAZOGA: I believe that, I believe that the value of my property will now shoot way down. I don't think anybody, by the way, my house is on the market, it's right next to this machine shop, it's not a sewing shop, not an internet business, you know, it's just machine noise, you know, nothing against you, great guy but just that I'm totally against that.

MR. TORLEY: Yes, sir, thank you. Is there anyone else?

MS. DOUPONA: Mary Doupona, I live at 1 Garden Drive. I just spent \$15,000 remodeling my home to upgrade it and I feel something like this is going to take away from the value of everything that I have just put into my home. And I'm really opposed to it, that's all.

MR. CURRY: Adelbert Curry, 40 Garden Drive. Six years ago, I spent \$12,000 on my house to make it better too and I'm not in favor of having any businesses in Garden Drive. If we let the business in there, the next one will want to make two-family houses out of just one family houses and how you going to stop 'em? Then you've got one in there already, you've got to give them permission to put a two-family house in there. I don't like it no way.

MS. MALIZIA: My name is Dorothy Malizia, I live at 17 Garden Drive. I just met Mr., well, John tonight formally, every time he passes by my house he waves and I wave back. So this is nothing against him but I'm against this, John, only because I suspect that as you get into this, John, you'll make it bigger and bigger because there's nothing nicer than having a business out of your home, if it's the right business and seeing the, what was your name, sir, the chairman?

MR. TORLEY: Larry Torley.

MS. MALIZIA: You read off that this really is against state laws and everything and then Mr. Pazoga here

happened to mention that he's got this piece of paper that says that you cannot have a machine shop in your home.

MR. TORLEY: Well, doesn't quite say that but--

MS. MALIZIA: But the piece of paper that I was shown says you can't have machinery.

MR. TORLEY: Machinery not found normally in a home.

MS. MALIZIA: I have lived in Garden Drive 34 years and it is a wonderful neighborhood, it really is. The people are so great. And I have seen children grow from when they were little grow up to womanhood and manhood and now they're actually coming back into Garden Drive and purchasing homes there. And I think something like that, this is just going to be a complete detriment to the neighborhood. I'm afraid that John's little business will really get to be a big business because it will be very convenient and that concerns me a great deal. Like I said, nothing against John himself or his wife, Sonya, but I would really hate to see this. I'm hoping John can think of something else to do with that space, no matter how good a machinist he is or take it elsewhere. But it is of concern for me and for many people who just could not be here tonight or some people not even have received their letters since I was under the impression that they were supposed to be certified letters and I only got mine last week where some people got them I think about a month ago. Right, John?

MR. TORLEY: They were mailed the 24th of February.

MS. MALIZIA: I only got mine just this past week.

MR. TORLEY: And no, ma'am, by the Town regulations, they need not be certified.

MS. MALIZIA: Oh, okay.

MR. KANE: It stopped a number of years ago.

MS. MALIZIA: Well, that's all right too but I heard

about this and I said I did not receive any letter but when I did receive my letter last week, it does concern me a great deal. I don't want to see this happen, John, I'm hoping you'll think of something else because I know that you can allocate a certain amount of space in one's home for a private little business but a machine shop really that concerns me a lot, John.

MR. BENICHIASA: Well, it is a small area, it's less than 1,000 square feet.

MS. MALIZIA: You're probably right, John, but if you're like most people, John, they're so comfortable doing something in their home, something like that gets larger and larger. And I don't want to see the trucks coming in. I don't want to see a lot of people coming into Garden Drive because after all, we pay high taxes there. And when I purchased 34 years ago, I went into that neighborhood because it had one entrance, one exit and it was just very, very private. It is a residential area and I just don't think that, I don't think I can really approve something like this, John. Thank you.

MR. TORLEY: Anybody else wish to speak?

MR. WORK: I'm Ray Work, 32 Garden Drive, Raymond Work, W-O-R-K, 32 Garden Drive. Now I remember when his dad put this addition on for the machine shop and I never got a variance for him to do that. How did he put this building up without anybody knowing about it? It's a big extension on the back of his house.

MR. KANE: How old is the building?

MR. BENICHIASA: 1986.

MR. WORK: Never got a variance.

MR. TORLEY: To put an addition on his house, an addition on his house, he may not have needed a variance.

MR. KANE: You only need a variance if you're going passed the required specifications in your yard. So

you can get a building permit as long as you stay within the property setbacks or whatever. And if he had a building permit, you know, the building department would know, he wouldn't have to come before this board for that.

MR. WORK: He needs a variance for his machine shop now, how come he didn't need a variance when he originally put that up?

MR. KANE: Two different things. When you build a building if you're within the specifications of the land, you don't need to have a variance just to put up an addition to your house, you need a building permit. He's looking for a use variance now. You only need a variance if you need to vary the code.

MR. KRIEGER: Put it another way, you're allowed to build an addition on your house, it's the use that's now come in question, not the existence of the addition. Somebody comes in and says I want to put an addition on my house, fine, but it's presumed that you will use that addition in ways that are allowed in that zone. Now, the question before the board has nothing to do with the existence of the addition, but it has to do with the use of that addition and a claim that that's not within what's allowed in that zone. That's what brings him here now.

MR. WORK: I think when you and John were talking, I heard you saying somebody put it up as a hobby for a hobby shop.

MR. BENICHIASA: Yes, it was a hobby shop.

MR. WORK: I don't know what you're talking about a hobby shop, his dad worked in the nail polish factory on 207.

MR. TORLEY: If somebody puts a wood shop, decides to do work working as a hobby and puts a lathe in his basement, that's what I mean by a hobby shop, it's a hobby, the guy could do model railroads as a hobby. If your hobby is doing machine work, the question is has he now moved beyond what would be somebody's hobby to a

commercial hobby, which is not permitted.

MR. WORK: You look in the yellow pages, John's got the name of his new business advertised in the yellow pages for a machine shop, 28 Garden Drive. How can he do that when you don't even have a machine shop there? You don't have a variance.

MR. TORLEY: That's why he's here to seek permission.

MR. KANE: He's here to make it legal or not legal. You have to understand a person has a right if he wants to spend his money and advertise it, he can go and do it. The reason he's here is to find out if it's legal or not.

MR. WORK: If somebody sees that advertisement in the yellow pages and brings him a job, he can do it?

MR. KANE: Not after tonight, if it's not approved it's, you know, you can advertise anything you want to advertise, that's up to you, okay. If he gets denied that tonight, then it will not be a legal machine shop, no, he will not be legally be able to run anything there, whether he does or not, then he becomes subject to, you know, inspections by the zoning inspector and then being fined or ticketed for doing something along those lines.

MS. WOLFE: Sandra Wolf, I'm speaking for my mother, Erna Baker, who lives on 20 Faye Avenue right behind, you say it's only going to be temporary for a year or two, well, why do you want to buy her property?

MR. BENICHIASA: Because it just makes the back of my property bigger, it's dead space, I don't intend on polluting the property, it's just there, it's dead material to her and I just wanted to bring the back of my house up and level it for more home value.

MS. WOLF: How would you level the embankment there?

MR. BENICHIASA: I would have somebody come in and make a wall.

MS. PAZOGA: My name is Carmela Pazoga, 4 Garden Drive. And I do oppose to the machine shop and after finding that it's more than what I think it was just a hobby shop, I'm more opposed now than I ever was before. I'm sorry, John, I like you, but I do oppose the business there, it's a residential area and sir on the board, you indicated that being that it was a hobby shop to him that he can apply for a variance?

MR. TORLEY: No.

MS. PAZOGA: Even to this day. So in essence, any one of us on Garden Drive that have a hobby, we can come in front of the board and say we have been doing in for eight or nine years and we're going to--

MR. TORLEY: You'd be in the same situation, everybody has a right to try and make an application.

MR. KANE: That's your right.

MS. PAZOGA: Right, I understand that.

MR. TORLEY: I don't want people talking back and forth. This way. Does anyone else wish to speak?

MR. PAZOGA: So if what you're saying is if it was never brought up, no problem?

MR. TORLEY: If nobody ever heard, we can only act upon cases that are brought before us, if nobody ever tells us anything, how are we going to know it's there?

MR. KANE: The only way you become in front of the zoning board is to go to the building inspector and apply for a permit and for him to turn you down. Then it's a Zoning Board of Appeals so you're allowed to, to appeal his decision, that's what we're about.

MR. TORLEY: Does anyone else wish to speak?

MR. PETRO: I'm Tom Petro, I live at 22 Garden Drive. Hi, Andy, how are you? I live about three houses away. I think what everybody here mostly is concerned about from what I'm hearing so far is the fact that John is a



very good man, he's a good family man, he has nice kids, everybody gets along, we have a nice complexion in the neighborhood of nice clean typical quiet residential American neighborhood. I have a commercial business, my commercial business is in Rockland County, it's in a commercial zoned area. I cannot have my business in a residential area. We're somewhat quiet, we don't make a lot of noise, but that's the law. I have to live by that law. I come home to a residential area because I like living in a residential area. I don't like businesses in my community right around where I live because that's where I have chosen to live. And I think that that basically is what most of the people here have a main concern with from what I'm am hearing and that's how I feel. I think that that's, we don't want to see the complexion of our neighborhood change in any way with additional vehicles coming in, whether they be large, whether they be small. It's quiet, we would like to keep it that way. Thank you.

MR. TORLEY: Does anyone else wish to speak?

MR. OESTRICH: My name is Clayton Oestrich and I live on Faye Avenue but I corner on his property and I have lived here for 40 years and I have nothing against the man but I don't want to have a business like that open up in the neighborhood. We've got just family dwellings there, we don't need a business in there and trucks and stuff. I know my brother went through that over in the Town of Newburgh and things got out of hand, it got noisy and they finally had to get lawyers and everything else to get the business taken care of. And I don't want to see us have to go through that cause, you know, it's an awful temptation if you can make a lot of money by having a stamping machine along with this other stuff to start it, as long as you've got a business there, I don't want to see a business in there if I can help it. Thank you.

MR. TORLEY: Does anyone else wish to speak?

MS. BAKER: Erna Baker, I live right behind him and he has cars in and out and we hear machines in the summertime and if he builds onto that, God knows what it's going to be, it will be screeching all day long

with trucks in and out. And it's so beautiful and quiet there, that's what I love most about it. We do not want any part of it.

MR. TORLEY: Anyone else wish to speak on this matter? I'm going to close the public hearing and open it back up to the members of the board.

MR. BENICHIASA: Can I say something?

MR. TORLEY: Feel free but please direct it to us not the audience.

MR. BENICHIASA: Just to the fact that large enterprises start from little enterprises and this is where my steppingstone is. Does anybody feel threatened of what I'm doing? Does anybody hear any noise of what I'm doing? Does anybody feel at all uneasy? How many of you come into my house and saw it and amazed at what I can do and you just say it's fantastic. Why this, you know, you're airing your views, of course, but do all businesses get started by little businesses that get started in basements, back yards. You look at a multi-million dollar corporation like Bristo Meyers, they make 4.5 billion dollars a day and this guy started off in the back of his house making lye soap. There's hundreds of starts and little things like that. He made lye soap in a 50 gallon container and sold the bars for 2 cents a bar and that's how Bristol Meyers got started. And I know the guy who owns it, we're good friends. All little things get started. And this is all I'm saying.

MR. TORLEY: Okay, members of the board have any questions?

MR. KANE: Well, he's looking for a use variance and as we know, that's very strict from the state and I haven't heard of anything addressing all four of the issues for the use variance, so there's absolutely nothing there to work with on any of the four major points.

MR. TORLEY: Remember we asked you at the beginning you had to meet four criteria in order to be granted a use

variance and do you have any other information you want to give us that justify meeting those four criteria?

MR. BENICHIASA: Not at all except I've been honest with you about what I'm doing.

MR. TORLEY: We do appreciate the honesty.

MR. BENICHIASA: I will be out in a year, maybe two years maximum, all I'm doing is building capital to move on.

MR. KANE: And a use variance from New York State is extremely difficult to meet.

MR. TORLEY: Whether or not we think it's a good idea we're bound by state law and under the criteria of the state law and that law says that you have to meet all four criteria before we can consider granting such a variance.

MR. KANE: Or at least prove to us an overwhelmingly situation, for instance, if it were, even though it might have been self-created, there might be an overwhelmingly situation but the valuation, selling the home, that right there knocks it.

MR. BENICHIASA: I have an offer for my house right now.

MR. KANE: That means you can sell it as a single family home which knocks you down for the use variance right there.

MR. BENICHIASA: Does anybody know--

MR. TORLEY: Again, to us--

MR. BENICHIASA: --there are other businesses that were on that street, there was a doctor's office.

MR. TORLEY: Okay now, there are permitted, there are home professional officers that are permitted by our code. As we examine the code, you do not fit the criteria for either of those, that's not what's in

there. The code may change in the future but right now, that's what it is. You said that you're going to be moving on to a commercial, you started off at basically a hobby, it's now become a commercial activity and I hope your business thrives, I really do. We do need skilled machinists. But as you say things start in back yards, basements or garages but then they move to commercial areas once they become commercial activities. Gentlemen, any other things you wish to say?

MR. REIS: Mr. Chairman, I'll make a motion in a moment but due to the overwhelmingly negative response, I think we have to kind of give it a big opener to that, due to the fact that John's talents have grown to the point where he can produce and he needs, well, he's requesting what he needs to be able to continue his operations.

MR. BENICHIASA: And due to the situation connected to DHS, this stuff cannot be made overseas.

MR. REIS: It's almost unfortunate that the guy is very talented and that it's possible that this may not pass, I don't know yet, okay, but if there's no other questions, I'd like to make a motion.

MR. TORLEY: I do want to put one item, as you know, there's a little handwritten note at the base of the, I wanted to thank you for reminding me, I wanted to place it, I will not read the entire matter, I believe it's Frank and Stella Rohan (phonetic) have written a short memo at the bottom of the notice stating that they will not be able to attend the meeting and they're opposed to granting of the variance.

MR. BENICHIASA: Where do they live?

MR. TORLEY: Frank and Stella Rohan, 36 Garden Drive. Gentlemen, if there are any other questions?

MR. REIS: All motions have to be made in the affirmative?

MR. TORLEY: That's correct.

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MR. REIS: I make the motion that we pass Mr. Benichiasa's request for his variance at Garden Drive.

MR. KANE: Second the motion.

ROLL CALL

MR. RIVERA	NO
MR. REIS	NO
MR. KANE	NO
MR. TORLEY	NO

JOHN RINALDI #03-11

MR. TORLEY: Request for interpretation for single-family home containing two kitchens at 322 Linden Avenue in an R-4 zone.

Mr. John Rinaldi appeared before the board for this proposal.

MR. TORLEY: Is anyone wishing to speak on Mr. Rinaldi's application? Hearing none, let the record so note. So yes, sir.

MR. RINALDI: We're here today for an interpretation on the use of my bi-level, lower level we have a sink, some cabinetry that's in the family room area which we use primarily for entertaining, use of the pool in the back yard during the summer months. We have the refrigerator down there so people can get drinks, wash up in the sink down there, we use it to wash the dog. We do not have a two-family home, have never had a two-family home. There's no electric service for a stove. There's no gas service for a stove, there isn't even a cut-out in the cabinetry to put a stove if we wanted to. We don't even have a microwave down there anymore. So it's just used to during the summer months and when we are entertaining at Christmas and we wash the dog in that sink too so that's primarily it.

MR. KANE: No comments formally or informally about the kitchen area in your basement?

MR. RINALDI: Absolutely none.

MR. TORLEY: And you're willing to stipulate that this is a single family house and will remain so?

MR. RINALDI: It has always been a single family home and has never been nothing but that.

MR. TORLEY: And will be marketed in the future?

MR. RINALDI: Yes, it's definitely a single family home.

MR. KANE: There's only one electrical and gas meter coming into the house?

MR. RINALDI: Yes, there's only one electrical and gas meter to the whole house.

MR. TORLEY: Gentlemen, nobody in the audience. Anyone else have any questions?

MR. REIS: Mr. Chairman, I happen to be involved, our company happens to be involved with the sale of the property so I'm going to have to recuse myself on the vote.

MS. MASON: On the 28th of February, 55 envelopes were mailed out containing the notice of public hearing.

MR. TORLEY: Gentlemen, do you have any other questions on this matter?

MR. KANE: No. Accept a motion?

MR. TORLEY: Yes.

MR. KANE: I move that we interpret the Rinaldi house at 322 Linden Avenue as a single family home intended as use as a single family home with two kitchens.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	ABSTAIN
MR. KANE	AYE
MR. TORLEY	AYE

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FORMAL DECISIONS

1. Hudson Valley Drilling
2. Anne Harris
3. Caralex Realty
4. Route 32 N.W. Realty LLC
5. Bloom & Bloom
6. James Nugent, Jr.
7. La Casa D'Oro
8. David Crawford

MR. REIS: Make a motion that we accept in block all the formal decisions as written.

MR. KANE: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. KANE	AYE
MR. TORLEY	AYE

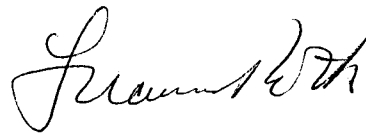
MR. KANE: Motion to adjourn.

MR. REIS: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. KANE	AYE
MR. TORLEY	AYE

Respectfully Submitted By:



Frances Roth  
Stenographer

3/14/03